

## **NOTICE OF PROPOSED REGULATIONS**

### **California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to adopt sections 3123 and 3124 of Subchapter 2, Chapter 1 of Title 15, Division 3, of the California Code of Regulations (CCR), and the amendment of sections 3041.3, 3122, 3162, and 3164, concerning inmate law libraries.

#### **PUBLIC HEARING:**

Date and Time: **January 20, 2009, 9:00 a.m. to 10:00 a.m.**  
Place: Corrections Standards Authority  
Large Conference Room  
660 Bercut Drive, West Entrance  
Sacramento, CA 95814  
Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close **January 20, 2009, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 341-7366; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation  
P.O. Box 942883, Sacramento, CA 94283-0001  
Telephone (916) 341-7390**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**John McClure  
Regulation and Policy Management Branch  
Telephone (916) 341-6894**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Troy Fennel  
Principle, Office of Correctional Education  
Telephone (916) 327-5311**

### **LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

### **FISCAL IMPACT STATEMENT:**

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

### **EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

### **ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:**

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

### **CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action.

### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

### **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are

sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

- This action adopts provisions that will provide guidance to the prison law libraries about the extent to which inmates are provided with law library access to satisfy their constitutional right to meaningful access to the courts, as well as provide much needed clarification about inmate access to the law libraries for those inmates that have been designated as having Priority Legal User status.
- This action will encode into regulations the federal court order in *Gilmore v. Lynch* listing the materials that the CDCR law libraries must maintain. Also, *Gilmore* mandated that law library materials are increasingly made available to inmates by computer on the Law Library Electronic Delivery System.
- This action will amend existing regulations to offer guidance to the law libraries about the extent they must duplicate legal documents for inmates that are intended for a court. This action will also set out lawful standards on legal duplication for indigent inmates. This action is necessary to ensure consistency in the CDCR and to manage costs and resources to the state associated with legal duplication services.